

B-258471

April 20, 1995

John P. Mahoney, Esquire
Passman & Kaplan, P.C.
1090 Vermont Avenue, NW
Suite 920
Washington, DC 20005

Dear Mr. Mahoney:

This is in reply to your letter of May 9, 1994, regarding the entitlement of Mr. John S. Jenkins to be credited with his years of service as a retired D.C. Police Officer for annual leave accrual purposes under 5 U.S.C. § 6303(a) (1988), upon his post-retirement employment with the Department of the Navy.

According to the file, Mr. Jenkins was retired for years of service from the D.C. Police force in the early part of 1989 and is receiving an annuity under the District of Columbia Police and Firefighters' Retirement and Disability Act based on his approximately 23 and one-half years of service. On May 15, 1989, he began federal employment with the Department of the Navy. Based on information from the Office of Personnel Management (OPM), the Department of the Navy credited him with his police years of service to establish his service computation date and his annual leave accrual rate under 5 U.S.C. § 6303(a) (1988). As a result, he received annual leave at the rate of 8 hours a pay period.

In October 1993, the Navy determined that such crediting was erroneous. Upon changing Mr. Jenkins's service computation date, his annual leave balance had to be adjusted downward. This resulted in him having used more annual leave than he otherwise properly accrued during each of the years 1989, 1990, and 1991. This excess leave usage caused him to be overpaid for that period, the debt totaling \$1,770.16.

By letter dated April 28, 1994, Mr. Jenkins sought waiver of that debt. By action dated September 23, 1994, Z-2927447, this Office waived that debt. It is your view that not only was there no debt, but that Mr. Jenkins was entitled to be credited with his D.C. Police years of service for annual leave accrual purposes at the rate of 8 hours a pay

322419

063417/154099

period beginning on the date he was first employed by the Department of the Navy in May 1989.

By decision Retired D.C. Police Officers, B-256756, Apr. 11, 1995, copy enclosed, we analyzed the law and regulations governing the crediting of years of service under 5 U.S.C. § 6303(a) (1988) for annual leave accrual purposes. We concluded that, because the retirement system under which D.C. Police officers are covered is not a federal retirement system, and since police officers who retire under that system cannot thereafter obtain a refund of their retirement deductions and redeposit them into a federal retirement system, they may not receive credit for those years of service upon post-retirement employment with the federal government.

Therefore, it is our view that Mr. Jenkins is not entitled to be credited with his D.C. Police years of service for annual leave accrual purposes and the action taken to correct Mr. Jenkins's service computation date and adjust his annual leave balance downward was correct. Further, since the downward adjustment of his leave balance resulted in an overpayment to him and since he is without fault in the matter, our Claims Group's action dated September 23, 1994, waiving that debt, was proper.

Sincerely yours,

/s/ Seymour Efros

for Robert P. Murphy
General Counsel

Enclosure

B-258471

Digest

A District of Columbia Police officer, whose District service began before October 1, 1987, retired under the District of Columbia Police and Firefighters' Retirement and Disability Act. He was thereafter employed by the Department of the Navy and credited with his D.C. Police years of service for service computation date purposes and to establish his annual leave accrual rate under 5 U.S.C. § 6303(a). Such crediting was erroneous because he could not withdraw his retirement contributions under the district system and deposit them into the Civil Service Retirement system. Therefore, the action to correct his service computation date and adjust his annual leave balance downward was correct. Retired D.C. Police Officers, B-256756, Apr. 11, 1995.